



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 21, 1996

Mr. Gary W. Smith
City Attorney
City of Greenville
P.O. Box 1049
Greenville, Texas 75403-1049

OR96-1518

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35615.

The City of Greenville (the "city") received an open records request for records concerning an investigation of aggravated sexual assault of a child. You claim that the city may withhold the requested records from the public pursuant to sections 552.101 and 552.108 of the Government Code.

You contend that the requested records are confidential under section 34.08 of the Family Code in conjunction with section 552.101 of the Government Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 34.08 was repealed by the Seventy-Fourth Legislature and became section 261.201 of the Family Code.¹ This Family Code provision now reads in pertinent part as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

¹See Act of April 6, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Sess. Law Serv. 113, 262 (Vernon); Act of May 26, 1995, 74th Leg., R.S., ch. 751, § 93, 1995 Tex. Sess. Law Serv. 3888, 3924 (Vernon).

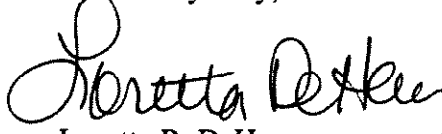
(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201. The requested information consists of "reports, records, communications, and working papers" used or developed in investigations made under chapter 261 of the Family Code. Because you have not cited any specific rule that the city has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, the requested records are confidential pursuant to section 261.201 of the Family Code. See Open Records Decision No. 440 (1986) at 2 (predecessor statute). Accordingly, the city must withhold these records.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 35615

Enclosures: Submitted documents

cc: Mr. Robert Anthony Michael
E. Thomas Bishop, P.C.
5910 North Central Expressway
Dallas, Texas 75206
(w/o enclosures)

²Because we conclude that you must withhold the requested records under the Family Code, we do not address your claims under section 552.108 of the Government Code.